IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION Nos.26015 of 1999, 3353 of 2000

and 16935 of 2001

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W.P.No.26015 of 1999:

Between:

1. Mohd. Ghousuddin, S/o. Md. Giyasuddin, Muslim, aged 50 years,

Occ: Business, R/o. H.No.20-7-240/14/A, Qazipura, Hyderabad.

2. Mohd. Abid, S/o. Mohd. Yousuf, Muslim, aged 48 years, Occ: Business,

R/o. H.No.2-70, Moin Mohalla, Shamshabad, Ranga Reddy District.

3. Galib Bin Abood Bin Aslam, Muslim, aged 22 years, Occ: Business,

R/o. H.No.23-3-117, Sultan Shahi, Hyderabad.

4. Smt. Zaheda Khatoon, W/o. Mohd. Abid, aged 22 years, H.No.2-70,

Moin Mohalla, Shamshabad, Ranga Reddy District.

5. Abood Bin Aslam, S/o. Aslam Bin Saleh, aged 30 years, Occ: Business,

R/o. H.No.23-3-118, Sultan Shahi, Hyderabad.

6. Syed Ghouse, S/o. Syed Meer, Muslim, aged 34 years, Occ: Business,

R/o. H.No.19-2-29/A/39, Model Town Colony, Jahanuma, Hyderabad.

7. Habeeb Abdullah, S/o. Habeeb Jafer, Muslim, aged 35 years,

Occ:Business, R/o.H.No.8-14-25/15, Mailardevpally, Rajendranagar

Mandal, R.R. District.

8. Zeenath Khatoon, W/o. Ahmed Hussain, Muslim, aged 22 years,

Occ: Household, R/o. H.No.8-14-25/15, Mailardevpally, Rajendranagar

Mandal, R.R. District.

9. Mir Sujath Ali, S/o. Mir Hasham Ali, Muslim, aged 35 years,

Occ:Business, R/o. 8-14-25/15/A, Mailardevpally, Rajendranagar

Mandal, R.R. District.

10.Mahmooda Banu, S/o. Md. Osman Quraishi, Muslim, aged 35 years,

Occ: Household, R/o. 8-14-17/1, Mailardevpally, Rajendranagar

Mandal, R.R. District.

11.Mohd. Osman Quraishi, S/o. M.A. Kaleem, Muslim, aged 45 years,

Occ: Business, R/o. H.No.8-14-25/16/4, Mailardevpally, Rajendranagar

Mandal, R.R. District.

12.Mir Anwar Ali, S/o. Mir Ahmed Ali, Muslim, aged 35 years, R/o. H.No.

8-14-25/14, Mailardevpally, Rajendranagar Mandal, R.R. District.

13.Ameen Pasha, S/o. Ghani Pasha, Muslim, aged 35 years, Occ:Business,

R/o. H.No.8-14-25/13, Mailardevpally, Rajendranagar Mandal,

R.R. District.

14.Mubeen Pasha, S/o. Ghani Pasha, Muslim, aged 33 years, Occ:Business

R/o.H.No.8-14-25/13/A, Mailardevpally, Rajendranagar Mandal,

R.R. District.

15.Mohd. Taskeen, S/o. Mohd. Miskeen, Muslim, aged 57 years, Occ:

Business, R/o.H.No.8-14-25/A, Mailardevpally, Rajendranagar Mandal,

R.R.District.

16.Abdul Kareem Khan, S/o. Sikander Khan, Muslim, aged 45 years,

R/o. H.No.8-14-25/D, Mailardevpally, Rajendranagar Mandal,

R.R.District.

..... PETITIONERS

AND

1. The State of Andhra Pradesh, rep. by its Secretary,

Revenue Department having Office at Secretariat, Hyderabad.

2. The District Collector, Ranga Reddy District.

3. Station House Officer, Bahadurpura, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus declaring that the order of Respondent No.1 in file No.D1/6014/98 dated 25.7.1998 contrary to law, in violation of principles of natural justice and arbitrary consequently the same may be set aside.

Counsel for the Petitioners: MR. C. MALLA REDDY, SENIOR COUNSEL FOR MR.MOHD.MOIN AHMED QUADRI

Counsel for the Respondents: GP FOR ASSIGNMENT

W.P. No.3353 of 2000:

Between:

1 Mohd.Yousuf, S/o. Mohd.Abdullah,
R/o. 8-14-25/B, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
2 Md.Azizuddin, S/o. Md.Yousuf Quadri,
R/o. 8-14-25/B, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
3 Md.Tayab Ali, S/o. Mohd.Hamid Ali,
R/o. 8-14-25/B, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
4 Mateen Pasha, S/o. Ghani Pasha,
R/o. 8-14-25/13, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
5 Mir Anwar Ali, S/o. Mir Ahmed Ali,
R/o. 8-14-25/14/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
6 Md.Mazharuddin, S/o. Md.Zahooruddin,
R/o. 8-14-25/14/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
7 M.A.Waheed, S/o. M.A.Sami,
R/o. 8-14-25/14-A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
8 Syed Nizamuddin, S/o. Aliuddin,
H.No.8-14-25/14-A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
9 Mohd.Moin Pasha, S/o. Ghani Pasha,
H.No.8-14-25/C, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
10 Habeeb Hassan, S/o. Hassan,
H.No.8-14-25/18/A, Rukunuddowla,

Meersagar, Rajendranagar Mandal, Ranga Reddy District.
11 Shareefa Aisha, W/o. Habeeb Hasan,
H.No.8-14-25/18/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
12 Syed Yaseen, S/o. Yaseen,
H.No.8-14-25/B, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
13 Khaja Moinuddin, S/o. Md.Shareef,
H.No.8-14-25/19/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
14 Md.Iqbal, S/o. Shaik Bale,
H.No.8-14-25/19/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
15 Saleh Bin Ahmed, S/o. Ahmed,
H.No.8-14-25/19/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
16 Syed Zakiuddin, S/o. Azizuddin,
H.No.8-14-25/19/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
17 Syed Hasiuddin, S/o. Azizuddin,
H.No.8-14-25/19/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
18 Fateh Mohd, S/o. Mohd.Mastan,
H.No.8-14-41, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
19 Habeeb Jafer, S/o. Habeeb Hasan,
H.No.8-14-25/17, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
20 Syed Yaseen, S/o. Syed Mahmood Hussain,
H.No.8-14-25/17/1, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
21 Khaja Moinuddin, S/o. Mohd Shareef,
H.No.8-14-25/19/A, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
22 Syed Naziruddin, S/o. Mohd.Azizuddin,
H.No.8-14-25, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.
23 Mohd.Imaduddin, S/o. Mohd.Giasuddin,
H.No.8-14-25/19/C, Rukunuddowla,
Meersagar, Rajendranagar Mandal, Ranga Reddy District.

..... PETITIONERS

AND

1 State of Andhra Pradesh, Rep. by its Secretary Revenue Department,
Secretariat, Hyderabad.
2 District Collector, Lakdikapool, Hyderabad, Ranga Reddy District.
3 Station House Officer, Bahadurpura, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus declaring that the order of Respondent No.1 in file No.D1/6014/98 dated 25.7.1998 contrary to law, in violation of principles of natural justice and arbitrary consequently the same may be set aside.

Counsel for the Petitioners: MR. C. MALLA REDDY, SENIOR COUNSEL FOR MR.MOHD.MOIN AHMED QUADRI

Counsel for the Respondents: GP FOR ASSIGNMENT

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W.P. No.16935 of 2001:

Between:

Smt. Sharada Bai, W/o. Anand Kishore, aged about 48 years, Occ: Household, R/o. H.No.21-1-516, Opp: High Court, Hyderabad.

…..PETITIONER

AND

1. The District Collector, Ranga Reddy District. 2. The Mandal Revenue Officer, Rajendranagar Mandal, R.R. District. 3. D. Pushpa Reddy, W/o. D. Pratap Reddy, Late, H.No.8-23, Mir Alam Tank, Hyderabad.

(R3 impleaded as per Court order in WPMP No.21758 of 2001 dated 12.10.2001)

….. RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring that the cancellation of patta issued in the name of late Sri D. Pratap Reddy vide Proceedings No.D1/6014/98 dated 25.7.1998 in respect of land under Survey No.34/1-2 adm. 10 Acres situated at Bum Ruknudowla Tq. (Urban) Hyderabad District is contrary to law, arbitrary, and void in as much as it is in violation of principles of natural justice and arbitrary consequently the respondents may be directed not to take any further action such as taking the petitioner land in possession etc., pursuant to the said cancellation proceedings.

Counsel for the Petitioner: MR. C. MALLA REDDY, SENIOR COUNSEL FOR MR.MOHD.MOIN AHMED QUADRI

Counsel for the Respondents 1 AND 2: GP FOR ASSIGNMENT

Counsel for the Respondent 3: None appeared.

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.26015 of 1999, 3353 of 2000 and 16935 of 2001

COMMON ORDER:

An extent of Acs.10.00 of land in S.No.34/1-2 situated at Bumruknudowla Village of Rajendranagar Mandal, was temporarily assigned to one D.Pratap Reddy, freedom fighter. It appears, the petitioners herein purchased land from the alleged assignee for a valuable consideration. The petitioners allege that in fact the Government of Andhra Pradesh allowed the freedom fighters to sell the lands. It is also the case of the petitioners that after they purchased land under agreement of sale and that necessary mutation was effected in revenue records and pahanies and in the pattadar pass books. Certain persons like petitioner in W.P.No.16935 of 2001 also entered into partnership with others and allegedly invested a considerable amounts for development of the land for leasing out to industries.

It appears, in 2001 the revenue and municipal officials tried to dispossess the petitioners on the ground that it forms part of tank bed land of Mir-Alam tank. The petitioners filed writ petitions before this Court when it was disclosed that temporary assignment made in favour of Pratap Reddy was cancelled in July, 1998 and that possession was taken under cover of panchnama. The petitioners, however, dispute this and assert that they are still in possession of the property. Thereafter, the petitioners filed present Writ Petitions challenging the orders of cancellation in relation to temporary assignment made in favour of Pratap Reddy and also an injunction restraining the respondents not to take further action.

This Court while admitting the Writ Petitions ordered *status quo.* Applications have been moved to vacate the interim orders by the respondents. In the counter affidavit accompanying these W.V.M.Ps it is contended that the land being tank bed land of Mir-Alam tank and coming within the limits of full tank level (FTL), necessary action was taken and possession was taken. The Writ Petitions are also opposed contending that the Government has formed a road for Ganesh Nimmajjanam in the tank dividing part of land in S.No.34 and that the land is getting submerged when

there is a flood. A reference is also made to O.S.No.791 of 1994 filed by Pratap Reddy on the file of the Court of First Additional Judge, City Civil Court against the Government and the authority of the Pratap Reddy to sell the land while the proposals for assignment were pending is also questioned by respondents.

The matters were heard at length for some time. During the course of submissions, it is brought to the notice of this Court by the learned Senior Counsel Sri C. Malla Reddy that the petitioners herein made representations in October, 2004 to the Government expressing their willingness to purchase the land at market value. Therefore, he only prayed to direct the Government to consider the request made for alienation of property. Learned Senior Counsel however does not dispute the settled position of law that the land forming part of tank bed land or sikkam land cannot be assigned unless appropriate orders are passed by competent revenue officials for reclassifying the same. He, however, disputes the averments made by the Government that the land is coming within FTL and it is getting submerged.

A copy of the representation filed by petitioner in Writ Petition No.16935 of 2001 is placed before this Court. Learned Assistant Government Pleader does not dispute that the same has not been so far disposed of. As the matter is concerning alienation of land exceeding the value of Rs.20,000/- (Rupees twenty thousand only), it is only the Government that can consider. Therefore first respondent may consider the representation made by the petitioners within a period of four weeks from the date of receipt of this order keeping in view the various Government Memos issued from time to time regarding the alienation/ assignment of sikkam/tank bed land for agricultural purpose or residential purpose and send report to the Government. The Government, thereafter, may pass appropriate orders without in any manner being influenced by the fact that the petitioners approached this Court by filing these Writ Petitions and this Court disposed of these matters directing the Government to consider the same. The claim of the petitioners for alienation of the land for market value should be considered in accordance with the Government Memos as well as the judgment of the Supreme Court in **Hinch Lal Tiwari v. Kamala Devi** regarding assignment/alienation of tank bed lands. This exercise may be completed within a period of eight weeks after receipt of the report of the District Collector.

The Writ Petitions, with the above observations and directions, are accordingly disposed of. There shall be no order as to costs.

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(V.V.S.RAO, J)

2.11.2004

bnr

Note:CC by 5.11.2004.

(B.O)

bnr

To

1. The Secretary, Revenue Department, Government of Andhra Pradesh, Secretariat, Hyderabad.

2. The District Collector, Ranga Reddy District.

3. The Station House Officer, Bahadurpura, Hyderabad.

4. The Mandal Revenue Officer, Rajendranagar Mandal, Ranga Reddy District.

5. Two CCs to the Government Pleader for Assignment, High Court Buildings, Hyderabad (O.U.T)

6. Two C.D. Copies.